



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

TRG  
Docket No: 3386-00  
26 January 2001

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 23 January 2001. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 18 October 1999 at age 24. On 19 October 1999 you admitted to a fraudulent enlistment, but you were retained in the Navy. Subsequently, it was discovered that there was an additional extensive civilian record which you had not disclosed. A report in the record from the Federal Bureau of Investigations shows convictions for sexual battery, writing bad checks and multiple instances of credit card fraud. The credit card fraud conviction apparently resulted in your incarceration for about 19 months.

Based on the foregoing record you were processed for an administrative discharge by reason of misconduct due to fraudulent enlistment. In connection with this processing, you elected to waive your right to have your case heard by an administrative discharge board. On 1 March 2000 the discharge authority approved the recommendation of your commanding officer that you be discharged for misconduct with a discharge under other than honorable conditions. You were so discharged on 10 March 2000.

In its review of your application the Board carefully weighed all

potentially mitigating factors, such as your desire to serve and the contention that you have learned your lesson and will be a good citizen in the future. The Board found that these factors and contentions are not sufficient to warrant recharacterization of your discharge given your concealment of serious misconduct. The Board was aware that the regulations allow for the issuance of a discharge under other than honorable conditions in cases such as yours if the concealed offense(s) could have warranted a discharge under other than honorable conditions if committed on active duty, and the misconduct would have prevented enlistment if the Navy had known about them. The Board concluded that the discharge under other than honorable conditions was proper as issued and no change is warranted.

Regulations require the assignment of an RE-4 reenlistment code when an individual is discharged by reason of misconduct. Since you have been treated no differently than others in your situation, the Board could not find an error or injustice in the assignment of the RE-4 reenlistment code.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director